



Appeal Decision

Site visit made on 15 May 2017

by **Chris Forrett BSc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22nd June 2017

Appeal Ref: APP/Q1445/W/17/3166588

113-115 Trafalgar Road, Portslade, BN41 1GU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr H Cooper against Brighton & Hove City Council.
 - The application Ref BH2016/01784, is dated 15 June 2016.
 - The development proposed is the demolition of existing bungalows and the erection of 8no. 1 bed flats and 4no. studio flats.
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Decision

1. The appeal is dismissed and planning permission for the demolition of existing bungalows and the erection of 8no. 1 bed flats and 4no. studio flats is refused.

Procedural Matter

2. The appeal application has been submitted in outline with the application form indicating that there are none of the reserved matters being sought for approval at the outline stage. I have therefore dealt with the appeal on this basis.
3. Notwithstanding that, a drawing was submitted with the application which included details of how the proposed development might be formed. However, given that all matters are reserved for subsequent approval I have given that drawing little weight.

Main Issues

4. The main issues are
 - (i) whether the proposal makes adequate provision for mitigating any adverse impact upon local services and infrastructure; and
 - (ii) the effect of the development on the character of the area.

Reasons

Services and Infrastructure

5. The Council have indicated that the development should make financial contributions to various services and infrastructure including affordable housing (which may alternatively be provided on site), open space and indoor sport (£16,498), sustainable transport measures (£3,000), and the Council's local employment scheme (£2,200). Whilst it is noted that the Appellant does not

- object to any of the developer contributions no legal agreement to secure them has been completed.
6. In respect of affordable housing, Policy CP20 of the Brighton and Hove City Plan Part One (2016) (CP) requires the provision of affordable housing on all site of 5 or more dwellings. For sites of between 10 and 14 (net) dwellings a target of 30% affordable housing can be provided as an equivalent financial contribution. The Council have indicated that £262,500 would be an appropriate level of financial payment towards the provision of affordable housing elsewhere.
 7. The policy also states that this target may be applied more flexibly where the Council consider this to be justified with consideration given to the accessibility of the site, the costs relating to the development (and in particular financial viability), whether affordable housing would prejudice the realisation of other planning objectives, and the need to achieve a successful housing development. However, from the evidence before me, there has been no compelling argument advanced to justify a reduced or waived contribution in the context of Policy CP20.
 8. The Council have also referred me to the Objectively Assessed Needs for Housing : Brighton & Hove (2015) (OAN) which has identified a significant need for additional affordable housing of 810 units per annum over the plan period to 2030. Reference is also made to the Council's housing register which indicates a significant need for affordable housing.
 9. Given the Development Plan policy, the provision of affordable housing (either by a financial contribution or on site provision) is necessary to make the development acceptable, is directly related to the development and is fairly and reasonable related in scale and kind to the proposal. Consequently, it would satisfy the tests of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations) and paragraph 204 of the National Planning Policy Framework.
 10. For the above reasons, the development would not, in the absence of a completed section 106 obligation, provide an appropriate mechanism to secure much needed affordable housing contrary to Policy CP20 of the CP.
 11. Turning to the other matters, very limited evidence has been provided to me that justifies the suggested contributions with reliance being made on the Developer Contributions Technical Guidance approved in June 2016. For example, in respect of the contribution for open space and indoor sport provision, no details of what provision would be required or where such monies would be spent.
 12. Furthermore, Regulation 123(3) of the CIL Regulations prevents an obligation from being a reason for granting planning permission if an obligation provides for the provision of an infrastructure project (or a type of infrastructure) where five or more separate obligations have been entered into. No information has been provided to me in this respect. Consequently I cannot be certain that this restriction would not apply.
 13. Therefore, notwithstanding the aims of the development plan policy, it has not been demonstrated that any of the contributions sought directly relate to the development or are necessary to make the development acceptable in planning

terms. Therefore I am unable to conclude that the contributions sought would fully comply with the CIL Regulations. In these circumstances, the absence of a planning obligation for these elements does not weigh against the development.

Character of the area

14. The appeal site is located in a mixed use area with a variety of differing property designs and styles in the vicinity of the site. The appeal development proposes a total of 12 flats of which eight would have one bedroom and the remaining four would be studio flats.
15. Policy CP19 of the CP aims to improve housing choice and that an appropriate mix of housing is achieved across the City. Policy CP19(b) outlines at site level a housing mix may be set. However, from the evidence before me, there is no set housing mix for the appeal site through the mechanisms suggested in the policy.
16. The Appellant has indicated that there is a demand for such a type of housing in the area and that given the location of the site it would be more suitable for young persons. I also acknowledge that the OAN expects the focus of new market housing provision to be on two and three-bed properties.
17. Whilst I am conscious of the provisions of Policy CP19(c) and the OAN, I am satisfied that the Appellant has had regard to the housing mix particularly given that the site has been unsuccessfully marketed for the development of four 3-bedroomed properties which were previously granted planning permission¹.
18. Furthermore, at my site visit, I saw a variety of residential property sizes and styles in the area. Given this variety, the development of a mix of studio and one bedroomed flats, of the number indicated in this application, would not have an adverse impact on the urban grain of the area or the local neighbourhood.
19. In respect of the potential overdevelopment of the site, the Council have given very little evidence or explanation of their concerns. From the indicative plan submitted with the application it would appear that a development of this number of residential units could be successfully achieved within the site without having an excessive site coverage or height. Whilst I share the concerns of the Council in terms of the design and appearance of the building in the indicative scheme, this is not a matter before me.
20. Subject to a suitable design which would be considered at reserved matters stage (should I be minded to allow the appeal), for the above reasons the proposal would respect the character of the area and would reflect the varied urban grain of the locality. The development would therefore accord with Policies CP12, CP19 and SA6 of the CP which amongst other matters seek to improve housing choice and maintain balanced communities.

¹ BH2013/03498

Other matters

21. The Appellant has raised concerns over the Council's processing of the planning application. However, these concerns are procedural matters which have very little bearing on the planning merits of the development before me.

Conclusion

22. Taking all matters into consideration, including some letters of support, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR